



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants: Cathleen von Lehe et al.

Attorney Docket: EV31009US

Serial No: 10/810,445

Group Art Unit: 3763

Filed: March 26, 2004

For: DOUBLE ENDED INTRAVASCULAR MEDICAL DEVICE

-----

**PETITION UNDER 37 C.F.R. § 1.47(a)-AN INVENTOR REFUSES TO SIGN**

MAIL STOP MISSING PARTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

Applicants are filing herewith a Response to Notice to File Missing Parts and a Combined Declaration for Patent Application and Power of Attorney. Applicants hereby petition that the enclosed Combined Declaration be accepted under the provisions of 37 C.F.R. § 1.47(a). A check in the amount of \$260.00 is enclosed to cover the petition fee under 37 C.F.R. § 1.17(h) (\$130.00) and the surcharge fee (\$130.00).

The Combined Declaration is signed by all of the inventors except Thomas L. Clubb. Mr. Clubb's last known address is 554 Perch Lake Road, Hudson, WI 54016.

37 C.F.R. § 1.47(a) and M.P.E.P. § 409.03(a) allows a declaration not having the signatures of all the inventors to be accepted if it is: (1) signed by all the available joint inventors; and (2) accompanied by a petition including proof of the pertinent

---

**Certificate of Express Mailing (37 C.F.R. § 1.10)**

I hereby certify that this paper or fee is being deposited with the United States Postal Service as "Express Mail Post Office to Addressee" Mailing Label No. EV 399044246 US in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

Date:

August 13, 2004

Signature:

Jodi Jung

Name: Jodi Jung

08/17/2004 WABDELRI 00000006 10810445

130.00 0P  
02 FC:1460

facts, the petition fee set forth in 37 C.F.R. § 1.17(h), and the last known address of the non-signing inventor.

The enclosed Combined Declaration is signed by all of the available joint inventors and is accompanied by the petition fee and this petition that includes the last known address of Thomas L. Clubb, the non-signing inventor. Proof of the pertinent facts is given below and in the accompanying Statement of Facts in Support of Petition Under 37 C.F.R. § 1.47(a)-An Inventor Refuses to Sign.

Thomas L. Clubb refuses to sign the Combined Declaration for Patent Application and Power of Attorney for this application. As recited in the accompanying Statement of Facts in Support of Petition Under 37 C.F.R. § 1.47(a)-An Inventor Refuses to Sign, on July 19, 2004, Dian Bolte sent the application papers, including the application, the Combined Declaration for Patent Application and Power of Attorney and the Assignment to Thomas L. Clubb's last known address. On July 22, 2004, at approximately 8:38 a.m., Ms. Bolte called Mr. Clubb and he confirmed that he had received the application, Combined Declaration, and Assignment and that he would not sign the Combined Declaration or Assignment. Mr. Clubb is no longer employed by ev3 Inc., the assignee of the provisional applications from which this application claims priority.

Since Applicants have fulfilled the requirements of 37 C.F.R. § 1.47(a), Applicants respectfully request that the enclosed Combined Declaration for Patent Application and Power of Attorney be accepted.

Petition Under 37 C.F.R. § 1.47(a)  
Applicants: Cathleen von Lehe et al.  
Serial Number: 10/810,445

Attorney Docket: EV31009US

If any additional fees are required in connection with this petition, please  
charge the fees to Deposit Account No. 16-2312.

Respectfully submitted,

Dated: August 13, 2004

By 

**Customer No. 009561**

Terry L. Wiles, Esq. (29,989)

Patrick J. O'Connell, Esq. (33,984)

Miriam G. Simmons (34,727)

POPOVICH, WILES &

O'CONNELL, P.A.

650 Third Avenue South, Suite 600

Minneapolis, MN 55402

Telephone: (612) 334-8989

Representatives of Applicants

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants: Cathleen von Lehe et al.

Attorney Docket: EV31009US

Serial No: 10/810,445

Group Art Unit: 3763

Filed: March 26, 2004

For: DOUBLE ENDED INTRAVASCULAR MEDICAL DEVICE

**STATEMENT OF FACTS IN SUPPORT OF PETITION  
UNDER 37 C.F.R. § 1.47(a)-AN INVENTOR REFUSES TO SIGN**

MAIL STOP MISSING PARTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

1. I, Dian Bolte, of 10111 Beebe Lake Road NE, St. Michael, Minnesota 55376, am currently employed by ev3 Inc. as Executive Assistant to W. Glenn Edwards, Intellectual Property Counsel. ev3 Inc. is a corporation of the State of Delaware and has a business address of 4600 Nathan Lane North, Plymouth, Minnesota 55442.

2. On July 19, 2004, I forwarded a complete copy of the above-identified application, a Combined Declaration for Patent Application and Power of Attorney, and an Assignment to Thomas L. Clubb at his last known address, 554 Perch Lake Road, Hudson, WI 54016. A copy of my July 19, 2004 letter to Mr. Clubb is attached

---

**Certificate of Express Mailing (37 C.F.R. § 1.10)**

I hereby certify that this paper or fee is being deposited with the United States Postal Service as "Express Mail Post Office to Addressee" Mailing Label No. EV 399044246 US in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

Date:

August 13, 2004

Signature:

Jodi JungName: Jodi Jung

Statement of Facts in Support of Petition  
Applicants: Cathleen von Lehe et al.  
Serial Number: 10/810,445

Attorney Docket: EV31009US

as Exhibit A. Documentation showing proof of delivery of the July 19, 2004 letter and accompanying documents is attached as Exhibit B.

3. On July 22, 2004, at approximately 8:38 a.m., I had a phone conference with Thomas L. Clubb. Mr. Clubb indicated that he had received my July 19, 2004 letter, the patent application, the Combined Declaration for Patent Application and Power of Attorney and the Assignment. Mr. Clubb stated that he was declining to sign any of the papers involved with this patent application. He was cordial but adamant that he will not sign any of the papers.

4. Mr. Clubb is a former employee of ev3 Inc.

5. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true.

Date:

August 11, 2004

Dian Bolte  
Dian Bolte

# **EXHIBIT A**



July 19, 2004

Mr. Thomas L. Clubb  
554 Perch Lake Road  
Hudson, WI 54016

Re: Declaration and Assignment Form for DOUBLE ENDED INTRAVASCULAR MEDICAL  
DEVICE  
File ev31009US

Dear Mr. Clubb:

Enclosed you will find the above referenced documents which are required to proceed with the filing of the United States Patent Application for DOUBLE ENDED INTRAVASCULAR MEDICAL DEVICE for ev3 Inc. The Assignment must be signed in the presence of a Notary Public. The Declaration simply requires your signature and the date on which you signed it. Please return both documents to me as quickly as is practicable.

The drawings and the claims for this patent application that I have included in the package are for your records.

I am enclosing a FedEx envelope with postage affixed for your convenience.

Thank you so much for your attention to this matter. If you should have any questions or concerns, I can be contacted at 763-398-7028.

Best regards,

A handwritten signature in cursive script that reads 'Dian Bolte'.

Dian Bolte  
Executive Assistant to  
W. Glenn Edwards  
Intellectual Property Counsel  
ev3 Inc.

Enclosures

# **EXHIBIT B**



**Ship****Track/History****Address Book****Preferences****Fast Ship****Reports****My Profile**<< **Log out**   **Home**

Shipment Details

|                           |  |                                |  |
|---------------------------|--|--------------------------------|--|
| <b>Ship To:</b>           | Thomas L. Clubb<br>554 Perch Lake Road<br>Hudson, WI 54016<br>US<br>763-744-0246         | <b>Package type:</b>           | FedEx Envelope                             |
|                           |  | <b>Pickup/Drop Off</b>         | Drop Off                                   |
|                           |  | <b>Total Weight:</b>           | 1 LBS                                      |
|                           |  | <b>Declared Value:</b>         | 0 USD                                      |
|                           |  | <b>Shipper Account Number:</b> | 134493178                                  |
| <b>From:</b>              | Dian Bolte<br>EV3 INC<br>4600 NATHAN LANE NORTH<br>PLYMOUTH,MN 55442<br>US<br>7633987028 | <b>Bill Shipment To:</b>       | 134493178                                  |
|                           |  | <b>Courtesy Rate Quote*:</b>   | *6.05                                      |
|                           |  | <b>Special Services</b>        | Signature Required<br>Residential Delivery |
|                           |  | <b>Shipment type:</b>          | Express                                    |
| <b>Tracking Number:</b>   | 791296993030   |                                |  |
| <b>Your reference</b>     | W Glenn Edwards  |                                |  |
| <b>Department number:</b> | 650  |                                |  |
| <b>Ship date:</b>         | Jul 19 2004  |                                |  |
| <b>Service type:</b>      | FedEx 2-Day  |                                |  |

**Print****Return to History****Please Note**

•\*The courtesy rate shown here may be different than the actual charges for your shipment. Differences may occur based on actual weight, dimensions, and other factors. Consult the applicable FedEx Service Guide or the FedEx Rate Sheets for details on how shipping charges are calculated.

FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$500, e.g., jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits; Consult the applicable FedEx Service Guide for details.

**Bolte, Dian**

---

**From:** FedEx [donotreply@fedex.com]  
**Sent:** Wednesday, July 21, 2004 4:56 PM  
**To:** Bolte, Dian  
**Subject:** FedEx shipment 791296993030

Our records indicate that the shipment sent from Dian Bolte/EV3 INC to Thomas L. Clubb has been delivered.  
The package was delivered on 07/21/2004 at 1:42 PM and signed for or released by 221271 ROF.

The ship date of the shipment was 07/19/2004.

The tracking number of this shipment was 791296993030.

FedEx appreciates your business. For more information about FedEx services, please visit our web site at <http://www.fedex.com>

To track the status of this shipment online please use the following:  
[http://www.fedex.com/cgi-bin/tracking?tracknumbers=791296993030  
&action=track&language=english&cntry\\_code=us](http://www.fedex.com/cgi-bin/tracking?tracknumbers=791296993030&action=track&language=english&cntry_code=us)

Disclaimer

-----  
FedEx has not validated the authenticity of any email address.

---

Message scanned for viruses

[United States Home](#)[Information Center](#) | [Customer Support](#)**Fed****Package/Envelope Services**[Office / Print Services](#)[Freight Services](#)[Expedited Services](#)[Ship](#)[Track](#)[Rates](#)[Pickup](#)[Locations](#)[Transit Time](#)[International](#)Track Shipments  
Detailed Results [Printable Version](#) [Quick Help](#)

Tracking number 791296993030  
 Signed for by 221271 ROF  
 Ship date Jul 19, 2004  
 Delivery date/time Jul 21, 2004 1:42 pm

Reference number W GLENN EDWARDS  
 Delivered to Recipient  
 Delivery location HUDSON WI  
 Service type FedEx 2Day Envelope

You can also track:

- [By Alternate](#)
- [By Email](#)
- [TCN \(Gov't\)](#)

Track other FedEx

- [FedEx Customer shipments](#)
- [FedEx Tracking shipments](#)
- [International](#)

| Date/time                     | Status  | Location           | Comments                                       |
|-------------------------------|---|--------------------|--|
| Jul 21, 2004                  | 1:42 pm Delivered                             | HUDSON WI          | No signature required - release waiver on file |
|                               | 1:42 pm Delivered                             | HUDSON WI          | No signature required - release waiver on file |
| Jul 20, 2004                  | 8:11 am On FedEx vehicle for delivery         | WHITE BEAR LAKE MN |  |
|                               | 7:17 am Arrived at FedEx Destination Location | WHITE BEAR LAKE MN |  |
|                               | 6:03 pm Package status                        | WHITE BEAR LAKE MN | Package not due for delivery                   |
|                               | 5:58 pm Package status                        | WHITE BEAR LAKE MN | Package in FedEx location                      |
|                               | 8:10 am On FedEx vehicle for delivery         | WHITE BEAR LAKE MN |  |
| Jul 19, 2004                  | 4:45 am Left FedEx Ramp                       | MINNEAPOLIS MN     |  |
|                               | 4:45 am Arrived at FedEx Ramp                 | MINNEAPOLIS MN     |  |
|                               | 11:33 pm Package status                       | MINNEAPOLIS MN     | Package in FedEx location                      |
|                               | 11:28 pm Left FedEx Ramp                      | MINNEAPOLIS MN     |  |
|                               | 8:21 pm Left FedEx Origin Location            | MAPLE GROVE MN     |  |
| 8:10 pm Arrived at FedEx Ramp | MINNEAPOLIS MN                                |                    |  |

Wrong Address?  
 Reduce future mistakes  
[FedEx Address Check](#)

Shipping Freight?  
 FedEx has LTL, air  
 surface and air exp  
[multi piece package](#)  
 and ocean freight.

[Signature proof](#)[Track more shipments](#)

Email your detailed tracking results (optional)

Enter your email, submit up to three email addresses (separated by commas), add your message (optional), and click **Send email**.

From To 

Add a message to this email.

[Send email](#)
[Global Home](#) | [Service Info](#) | [About FedEx](#) | [Investor Relations](#) | [Careers](#) | [fedex.com Terms](#)